

Application No.: 10/765,274

**AMENDMENT TO THE FIGURE:**

The attached sheet of drawing replaces the original Figure 1. It is submitted that Fig. 1 is now in appropriate form.

Attachment: Replacement Sheets  
Annotated Sheet

**REMARKS**

The above amendments and these remarks are responsive to the Office Action issued on June 9, 2006. Claims 1 and 10 are amended and the specification is amended to provide information for co-pending applications incorporated by reference. Claims 2, 11 and 12 are cancelled without prejudice. No new matter has been added. Claims 1, 3-10 and 13 are now active for examination. A terminal disclaimer is submitted concurrently herewith.

The Office Action rejected claims 1-13 under the judicially created doctrine of obviousness-type double patenting over claims 1-9 of copending patent application No. 10/765,207. Claims 1-13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Mian et al. (U.S. Patent No. 5,636,026) in view of Conheady et al. (U.S. Publication No. 2002/0018218). The drawings were objected to for formality reasons. The Examiner suggested that information related to co-pending applications be added to the specification.

It is submitted that the claim rejections are overcome and the objections are addressed in view of the remarks, the amendments presented herein, and/or the terminal disclaimer submitted concurrently herewith.

**The Rejections of Claims 2, 11 and 12 Are Moot**

By this Response, claims 2, 11 and 12 are cancelled without prejudice. Therefore, the rejections of claims 2, 11 and 12 are moot.

**Objection to the Drawings**

The Examiner objected to the drawings for formality reasons. By this response, a replacement Figure 1 is submitted. It is submitted that the replacement Figure 1 is in appropriate form.

**The Obviousness Rejection Is Overcome**

The obviousness rejection of claims 1, 3-10 and 13 is traversed because Mian and Conheady cannot support a prima facie case of obviousness. By this Response, independent claims 1 and 10 are amended. It is submitted that the obviousness rejection is overcome.

Claim 10, as amended, describes an apparatus for optically scanning a vehicle wheel affixed with a stationary axis to a measuring shaft of a wheel balancing machine. The apparatus includes a first set of sensor devices, pivotally mounted to a frame of the wheel balancing machine, configured to scan the inside of the wheel, and a second set of sensor devices, fixed to a wheel guard hood of the wheel balancing machine, configured to scan the outside of the wheel. Each set of the sensor devices includes a light source for emitting a light beam on to the surface of the wheel, and a receiver that moves together with the light source, for receiving a light beam reflected from the wheel surface. A position sensor is provided to specify positions of the light sources and the receivers of the sensor devices. The apparatus includes an evaluation device, coupled to the receivers and the position sensor, for ascertaining dimensions and positions of constituent parts of the rim and the wheel disc portions of the vehicle wheel using a computer-aided procedure based on the respective directions of the emitted beams and the reflected beams. Appropriate support for the amendment can be found in, for instance, claims 11 and 12, and paragraph [0027] of the written description.

In contrast, Mian merely describes using triangulation-based sensors to measure railroad wheels. The embodiment shown in Figure 15 of Mian and related descriptions relied on by the Office Action fail to specifically describe the unique spatial arrangement and locations of the parts as described in claim 10, such as the two sets of sensor devices respectively mounted pivotally to a frame of the wheel balancing machine, and affixed to the wheel guard hood of the wheel balancing machine, as described in claim 10.

The other cited document, Conheady, only describes one single triangulation-based sensor and fails to specifically teach or suggest that two sets of sensor devices should be positioned at the unique locations as described in claim 10. Therefore, Mian and Conheady, even if combined, do not meet every limitation of claim 10. Accordingly, the obviousness rejection of claim 10 based on Mian and Conheady is overcome. Favorable reconsideration of claim 10 is respectfully requested.

Claim 1 includes descriptions substantially similar to claim 10. Thus, claim 1 also is patentable for at least the same reasons as for claim 10. Claims 3-9 and 13 depend on claims 1 and 10, respectively, and incorporate every limitation thereof. Therefore, claims 3-9 and 13 also are patentable by virtue of their respective dependencies.

#### **The Double Patenting Rejection Is Overcome**

Claims 1-13 were rejected under the obviousness type double patenting over claims 1-9 of copending Application No. 10/765,207. By this Response, a terminal disclaimer in compliance with 37 CFR 1.321(b) and (c) is submitted concurrently herewith. It is submitted that the double patenting rejection is overcome in view of the terminal disclaimer.

**Conclusion**

Accordingly, it is urged that the application, as now amended, is in condition for allowance, an indication of which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to **Deposit Account 500417** and please credit any excess fees to such deposit account.

Respectfully submitted,

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